

MAR 10 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY DWYER, ACTING CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

VARDAN FELIKSOVICH GRIGORIAN,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 06-71144

Agency No. A70-176-182

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted February 26, 2008<sup>\*\*</sup>

Before: BEEZER, FERNANDEZ, and McKEOWN, Circuit Judges.

Vardan Feliksovich Grigorian, a native and citizen of Armenia, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen proceedings to reissue its order affirming an immigration judge's

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

decision denying his application for asylum and withholding of removal. To the extent we have jurisdiction, it is under 8 U.S.C. § 1252. We review for abuse of discretion the denial of motions to reopen. *See Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). We deny in part and dismiss in part the petition for review.

With his motion to reissue, Grigorian's former counsel submitted an affidavit stating that he never received the BIA's September 30, 2005 decision. The BIA did not abuse its discretion in denying the motion to reissue, where it explained why counsel's affidavit was insufficient, and how it determined the decision was correctly mailed to counsel. *Cf. Singh v. Gonzales*, 494 F.3d 1170, 1172 (9th Cir. 2007) (remanding where BIA failed to acknowledge affidavits of non-receipt and failed to explain conclusion that decision was properly mailed).

We lack jurisdiction to review the BIA's decision not to invoke its sua sponte authority to reopen proceedings. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002).

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**